



VIA FIRST CLASS MAIL

October 17, 2022

Wendy E. Greve, Esq.
Daniel J. Burns, Esq.
Pullin, Fowler, Flanagan, Brown, & Poe, PLLC
James Mark Building
901 Quarrier Street
Charleston, WV 25301

**Re: Nabors, Eugene v. Trooper J. Tincher, et al.
United States District Court – Southern District
Civil Action No. 5:22-cv-00059**

Dear Ms. Greve and Mr. Burns,

Please find attached, *Plaintiff Eugene Nabors' Response to Defendant Sr. Trooper J. L. Tincher's First Set of Interrogatories and Requests for Production of Documents*. The Certificate of Service for this document was filed with the Court on today's date.

Thank you for your assistance in this matter. If you should have any questions or need additional information, please do not hesitate to contact me.

Very truly yours,

CALWELL LUCE DITRAPANO PLLC

By: 
Felicia Bryant, Legal Assistant
fbryant@cldlaw.com

CFB/fb

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA
BECKLEY DIVISION**

EUGENE NABORS,

Plaintiff,

v.

**Civil Action No.: 5:22-cv-00059
Honorable Frank W. Volk**

SR. TROOPER J.L. TINCHER,

Defendant.

**PLAINTIFF EUGENE NABORS' RESPONSE TO DEFENDANT SR. TROOPER J.L.
TINCHER'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS**

COMES NOW, Plaintiff, by counsel, pursuant to Rules 26, 33, and 34 of the West Virginia Rules of Civil Procedure and hereby serves his answers, responses, and objections ("Discovery Responses") to *Defendant Sr. Trooper J.L. Tinchler's First Set of Interrogatories and Requests for Production of Documents to Plaintiff Eugene Nabors* ("Discovery Requests").

INTERROGATORIES

1. Please state the complete name, including any former names, nicknames or aliases of Plaintiff, along with complete current residential and mailing address, date of birth, full name of your spouse if married, names of any and all persons residing with you; and residential and mailing addresses for the ten (10) years preceding the incident which is the subject of Plaintiff's Amended Complaint, setting forth the date(s) lived at each address, and the name of each individual residing at said addresses and their present address and phone number.

ANSWER: **Name:** Eugene Nabors, Jr.
 Address: [REDACTED]
 DOB: [REDACTED]

Plaintiff is not married and does not have any person residing with him at his residence. Plaintiff has been residing at above address for the prior ten years of the incident.

29. Has Plaintiff written or commented on ANY posts on ANY social media sites, concerning any of the allegations contained in the Amended Complaint? If the answer is in the affirmative, please identify the dates of each such post and/or comment and the contents therein.

ANSWER: Plaintiff has not written or commented on any social media site concerning any of the allegations contained in the Amended Complaint.

30. State the name, address and telephone number of every person who may testify at trial as an expert witness, and provide a summary of the expert's anticipated testimony and opinions, and state whether a report has been prepared.

ANSWER: Plaintiff does not know whom he expects to call at the trial of this case and reserves the right to supplement the Answer to this Interrogatory as the case progresses, in accordance with the Federal Rules of Civil Procedure and consistent with the applicable deadlines contained in the scheduling order governing this case.

31. If any response to the Requests for Admissions contained herein is anything other than an admission, please state Plaintiff's basis for, and any facts and law in support of, the same.

ANSWER: No Requests for Admission were served upon the Plaintiff.

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Provide copies of any statements of any potential witnesses or individuals that have been interviewed in connection with this litigation.

RESPONSE: Plaintiff is not aware of and does not have possession of any statement from any potential witnesses or individual that would have been interviewed in connection with this litigation.

2. Provide copies of all documents, including but not limited to treatment records, itemized billing statements, and pharmacy records, relevant to your claim for damages.

RESPONSE: Please find attached copies of medical records and billing records that Plaintiff currently has in his possession. Plaintiff is in the process of collecting the most recent information and will supplement these documents upon receipt of the same.

3. Provide copies of all letters, notes, recordings, or other documentation between the Plaintiff and the Defendant, his agents, or employers, concerning the allegations which are the subject of this civil action.

RESPONSE: Plaintiff is not in possession of any letter, notes, recordings, or any other documentation between him and the Defendant, his agents, or employers concerning this matter.

4. Provide copies of all documents within your possession or control which you have received from the Defendant, his agents, or employers, which relate in any way to the allegations within your Amended Complaint.

RESPONSE: Plaintiff is not aware of any responsive documents.

5. Please produce all documents, photographs, video or audio recordings, communications, notes, letters, text messages and/or instant messages within your possession or control, of any Defendant or employee of the West Virginia State Police or which refer, in any way, to the allegations in Plaintiff's Amended Complaint.

RESPONSE: Please find attached the video link of the incident that this Amended Complaint is regarding.

6. Please produce copies of, or produce for copying or inspection, any other documents, things, electronically stored items, photos, videos, recordings, or other tangible items that the Plaintiff asserts is evidence in support of Plaintiff's Amended Complaint.

RESPONSE: Please find attached documents and video links produced hereto.

7. Provide copies of all journals, diaries, calendars, appointment books, notes, notebooks or other writings written or maintained by you which reference, in any way, any of the allegations contained within Plaintiff's Amended Complaint. This includes such material in paper or electronic form.

RESPONSE: Plaintiff is not in possession of any journal, diary, calendar, appointment book, notes, notebook, or any other writings related to this Amended Complaint.

8. Provide copies of all other documents, along with an itemized listing, relevant to your claims for damages.

RESPONSE: Objection. Plaintiff is not required to create an "itemized listing" in response to a request for production. Subject to the objection, please find attached copies of medical records and billing records that Plaintiff currently has in his possession. Plaintiff is in the

process of collecting the most recent information and will supplement these documents upon receipt of the same.

9. Please produce any and all expert opinion letters, reports or other writings received from any expert witness who may testify on your behalf with regard to the allegations contained within Plaintiff's Amended Complaint.

RESPONSE: Plaintiff does not know whom he expects to call at the trial of this case and reserves the right to supplement the Response to this Request as the case progresses, in accordance with the Federal Rules of Civil Procedure and consistent with the applicable deadlines contained in the scheduling order governing this case.

10. Please provide the curriculum vitae of any expert witness whom you may call to testify in the hearing of this matter.

RESPONSE:

Plaintiff does not know whom he expects to call at the trial of this case and reserves the right to supplement the Response to this Request as the case progresses, in accordance with the Federal Rules of Civil Procedure and consistent with the applicable deadlines contained in the scheduling order governing this case.

11. Please produce copies of any and all exhibits that you may present at the trial in this matter.

RESPONSE: Plaintiff does not know what all exhibits that he plans to present at trial at this time and reserves the right to supplement the Response to this Request as the case progresses, in accordance with the Federal Rules of Civil Procedure and consistent with the applicable deadlines contained in the scheduling order governing this case.

12. If you have answered in the affirmative to Interrogatory No. 17, please properly execute and return the HIPAA Compliant Medical Authorizations for the release of medical, hospital, or related records of Plaintiff, attached hereto,

RESPONSE: Please find attached the executed HIPAA Complaint Medical Authorization.

13. If your response to Interrogatory No. 18 was in the affirmative, please produce any and all documents responsive to the same.

RESPONSE: N/A

14. Please execute the Authorization(s) for Wage, Employment and Unemployment Information of Plaintiff, attached hereto.

RESPONSE: Please find attached the executed Authorization for Wage, Employment and Unemployment Information of Plaintiff.

15. Please execute the Authorization for Workers' Compensation records of Plaintiff, attached hereto.

RESPONSE: Please find attached the executed Authorization for Workers' Compensation records of Plaintiff.

16. Please execute the Authorization for Educational records of Plaintiff, attached hereto.

RESPONSE: Please find attached the executed Authorization for Educational records of Plaintiff.

17. Please execute the Authorization for IRS records for the purposes of obtaining the same, attached hereto.

RESPONSE: Please find attached the executed Authorization for IRS records.

18. Please execute the Authorization for Social Security Administration Information of Plaintiff, attached hereto.

RESPONSE: Please find attached the executed Authorization for Social Security Administration Information of Plaintiff.

19. Please produce all social media postings, including but not limited to postings on your Facebook, Instagram, Twitter, YouTube, blogs, wikis, and any other social media sites that refer to or relate to in any way, the allegations contained within Plaintiff's Amended Complaint.

RESPONSE: Plaintiff does not have any social media accounts.

20. Please execute the attached authorization for Social Media records Information of Plaintiff, attached hereto.

RESPONSE: Please find attached the executed authorization for Social Media Records Information of Plaintiff.

21. Please produce tax returns of Plaintiff for the last ten (10) years.

RESPONSE: Plaintiff is not in current possession of his tax returns for the last ten years. Plaintiff will gather this information and supplement this Response in accordance with the scheduling order governing this case.

22. Please produce all documents used to formulate Plaintiff's answers to the Defendant's discovery requests, i.e., a copy of each and every document or other tangible thing which supports your responses herein, or was identified by you in your answer to any question herein; specifically identifying the question each document is responsive to.

RESPONSE: Please find attached all documents Plaintiff referred to answer Defendant's discovery requests.

EUGENE NABORS,
By Counsel

/s/ Amanda J. Davis, Esquire
L. Danté diTrapano (W.Va. Bar No. 6778)
Charles F. Bellomy (W. Va. Bar No. 9117)
Amanda J. Davis (W. Va. Bar No. 9375)
CALWELL LUCE DITRAPANO PLLC
Law and Arts Center West
500 Randolph Street
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(304) 343-4323
(304) 344-3684 Facsimile
Counsel for Plaintiff
And

W. Jesse Forbes, Esq. (WVSB# 9956)
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Telephone: (304) 343-4050
Facsimile: (304) 343 7450
Counsel for Plaintiff

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA
BECKLEY DIVISION**

EUGENE NABORS,

Plaintiff,

v.

**Civil Action No.: 5:22-cv-00059
Honorable Frank W. Volk**

SR. TROOPER J.L. TINCHER,

Defendant.

CERTIFICATE OF SERVICE

The undersigned, counsel of record for Plaintiff, Eugene Nabors does hereby certify that on this 17th day of October, 2022, that the instant Certificate of Service with regard to “**PLAINTIFF EUGENE NABORS’ RESPONSE TO DEFENDANT SR. TROOPER J.L. TINCHER’S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS**” was served upon all parties via the CM/ECF:

Wendy E. Greve, Esquire
Daniel J. Burns, Esquire
PULLIN, FOWLER, FLANAGAN,
BROWN & POE, PLLC
James Mark Building
901 Quarrier Street
Charleston, WV 25301

**EUGENE NABORS,
By Counsel**

/s/ Charles F. Bellomy, Esq.
L. Danté diTrapano (W.Va. Bar No. 6778)
Charles F. Bellomy (W. Va. Bar No. 9117)
Amanda J. Davis (W. Va. Bar No. 9375)
CALWELL LUCE DITRAPANO PLLC
Law and Arts Center West

500 Randolph Street
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(304) 343-4323
(304) 344-3684 Facsimile
Counsel for Plaintiff
And

W. Jesse Forbes, Esq. (WVSB# 9956)
FORBES LAW OFFICES, PLLC 1118
Kanawha Blvd. East
Charleston, WV 25301
Telephone: (304) 343-4050
Facsimile: (304) 343 7450
Counsel for Plaintiff

HIPAA COMPLIANT MEDICAL AUTHORIZATION

Name of specific identification of the person(s), or class of persons, authorized to make the requested disclosure:

Patient Name: Eugene Nabors Jr.

Address: [REDACTED]

Date of Birth: [REDACTED]

Social Security Number: [REDACTED]

In accordance with 45 CFR 164.508, and other provisions of 45 CFR, I authorize the disclosure of all protected medical information for the purpose of review and evaluation in connection with a legal claim. This authorization does not permit you to confer with any employee of Pullin, Fowler, Flanagan, Brown & Poe, PLLC, about any substantive matters unless my attorney authorizes. I expressly request that all covered entities identified above, under the Health Insurance Portability and Accountability Act, disclose full and complete protected medical information spanning the time period of January 1, 2010 - present to the present including the following (one sided copies only please) {electronic and paper-charted health information):

- * All medical records, including inpatient, outpatient, and emergency room treatment, all clinical charts, reports, documents, correspondence, test results, statements, questionnaires/histories, office and doctor's handwritten notes, and records received by other physicians.
- * All autopsy, laboratory, histology, cytology, pathology, radiology, CT scan, MRI, echocardiogram and cardiac catheterization reports.
- * All radiology films, mammograms, myelograms, CT scans, photographs, bone scans, pathology/cytology/histology/autopsy/immunohistochemistry specimens, cardiac catheterization videos/CDs/reels, and echocardiogram videos.
- * All pharmacy/prescription records including NDC numbers and drug information handouts/monographs.
- * All billing records, including all statements, itemized bills, and insurance records.

I authorize you to release the protected health/medical information to:

Pullin, Fowler, Flanagan, Brown & Poe, PLLC

JamesMark Building, 901 Quarrier Street, Charleston, West Virginia, 25301

- * This authorization does apply to alcohol/drug abuse treatment/referral records, sexually transmitted diseases or HIV/AIDS related treatment records, psychotherapy notes, psychiatric or psychological records.
- * I acknowledge the right to revoke this authorization by writing to a representative at Pullin, Fowler, Flanagan, Brown & Poe, PLLC at the above referenced address. However, I understand that any actions already taken in reliance on this authorization cannot be reversed, and my revocation will not affect those actions.
- * I understand that Pullin, Fowler, Flanagan, Brown & Poe, PLLC may send copies of my medical records to other individuals connected with the litigation, including but not limited to potential experts and/or counsel for party to the litigation, and that those disclosures are not governed by HIPAA regulations.
- * I understand that information disclosed by this authorization may be subject to redisclosure by the recipient and may no longer be protected by federal privacy regulations.
- * I understand that the covered entity to whom this authorization is directed may not condition treatment, payment, enrollment or eligibility benefits on whether or not I sign the authorization.
- * Any facsimile, copy or photocopy of the authorization shall authorize you to release the records herein.

Authorization expiration date or event: at the conclusion of litigation pending before USDC for the Southern District of WV at Beckley, bearing Civil Action No. 5:22-cv-59 (if left blank, will expire one year from date of signature).

Signature: Eugene Nabors Jr.

Date: 10-4-22

Relationship to the person who is the subject of the records:

Self: ☒ Other (describe authority): _____

WITNESS

Signature: Janie E. Bell

Date: 10-4-22

**AUTHORIZATION FOR THE RELEASE OF
WORKERS' COMPENSATION INFORMATION**

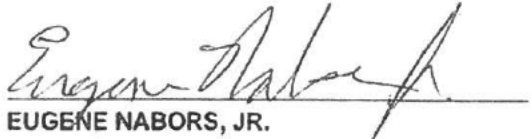
Claimant: Eugene Nabors

Address: [REDACTED]

DOB: [REDACTED]

SSN: [REDACTED]

I, **Eugene Nabors, Jr.**, hereby authorize the release of my complete Workers' Compensation file concerning any and all claims filed by me, or on my behalf, to Wendy E. Greve/Daniel J. Burns and the law firm of Pullin, Fowler & Flanagan, Brown & Poe, PLLC, located at 901 Quarrier Street, Charleston, West Virginia 25301, their agents or employees and/or AIG Insurance Company, its agents and/or employees.


EUGENE NABORS, JR.

10-4-22
DATE

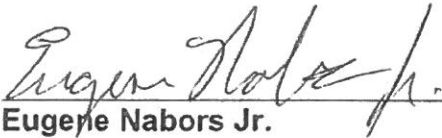

WITNESS

EDUCATIONAL RECORDS AUTHORIZATION

I, **Eugene Nabors Jr.**, hereby authorize representatives of the law firm of Pullin, Fowler, Flanagan, Brown & Poe, PLLC, JamesMark Building, 901 Quarrier Street, Charleston, West Virginia 25301, to obtain and review any and all school/educational records in the possession of any school or school system relating to the education of **Eugene Nabors Jr.**, and to make copies thereof.

I further understand and authorize that a photocopy of this executed *Educational Records Authorization* shall have the same effect as the original.

WITNESS my signature and seal this 4th day of October, 2022.


Eugene Nabors Jr.